

ISSUES CONCERNING SAN JACINTO RAIL

**Submit these comments TONIGHT at the Public Hearing.
After the Hearing, mail them before February 21, 2003 to:**

Attention: Dana White, Section of Environmental Analysis, Environmental Filing FD No. 34079, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423-0001 or fax them to 1-866-293-4979.

1. **Population and Land Use** – The analysis in the Draft Environmental Impact Statement (DEIS) totally misrepresents the population density and the ethnicity of the areas that are affected by San Jacinto Rail. The Surface Transportation Board (STB) should retract this DEIS and prepare a Supplemental Draft EIS (SDEIS) that tells the truth about the number of people that live within one mile of the proposed rail line, including the section along Highway 3, as well as the racial composition of those to be impacted by the proposed project. The Interstate Commerce Commission, the predecessor to the STB, denied a permit application for public safety reasons for a rail line outside Cincinnati, Ohio, where approximately 1000 people lived within 1000 feet of the proposed rail line. If the STB made a fair analysis of the San Jacinto Rail project, they would determine that over 21,000 persons live within ¼ mile of the proposed rail line between SH 225 and Ellington Field. Of these, 72% are Hispanic. There are 23 public schools near the proposed rail line.

2. **Environmental Justice** – There is an executive order on environmental justice (EO 12898) and there are regulations issued by the Council on Environmental Quality implementing this executive order. These regulations define minority to include Hispanics. EO 12898 requires that the impacts of a federal action be analyzed to insure that minorities are not disproportionately affected by proposed actions. In the DEIS on the SJ Rail project, the existence of significant numbers of Hispanics was not disclosed. This is a clear violation of EO 12898 and the CEQ implementing regulations. How can a determination be made regarding impacts on minorities if you don't disclose the truth about the existence of minorities adjacent to the rail line? Additionally, the STB's predecessor, the ICC, denied a permit for public safety reasons for a rail line in Cincinnati where about 1000 people lived within 1000 feet of a proposed line. Why isn't the same standard being used in Houston as was used in Cincinnati? In Houston, there are many more people, with over 7000 children being within ¼ mile, the majority of which are Hispanic. It is arbitrary to use a different public safety standard in Cincinnati than in Houston. It is arbitrary and capricious for the STB to ignore data regarding the percentage of Hispanics. Together, these two facts show a pattern of racial discrimination by the STB. Such discrimination is impermissible and must be stopped.

3. **Secondary Impacts – Land Use and Wetlands** - The proposed San Jacinto Rail Line will cross a large, undeveloped tract west of Armand Bayou and east of Ellington Field. The existence of a rail line across this property will induce additional commercial and industrial development, creating an industrial/commercial area between Clear Lake and Pasadena. This changed land use pattern will negatively impact the residential areas of Clear Lake and Pasadena and will lead to the filling of a large number of pothole wetlands that are of great importance to the local ecology. These wetlands, along with those on the proposed Bayport container port site, are the last prairie pothole wetlands in southeast Harris County. The loss of these wetlands is significant and represents a cumulative impact of the SJ Rail project and the proposed Bayport container port.

4. **Pipelines, Faulting and Rail Safety** – The area crossed by the proposed San Jacinto Rail line is criss-crossed by many pipelines carrying all types of chemical products. The rail industry has noted the basic incompatibility of pipelines and railroads in documentation prepared for the Congress of the United States as well as in internal studies. If a train derails and if a pipeline is within the area of the derailment, then the chance of toxic releases and/or explosions from the pipeline are very real. Oftentimes, pipelines are within a few feet of

the land surface, leaving them vulnerable to the force of a derailed train. In the case of San Jacinto Rail, the proposed line will cross several faults radiating from the Clear Lake oil field. These faults cause a shift in the land surface on the downthrown side of the fault, often leading to the structural failure of land uses crossing the fault. The chance of derailment is increased by the presence of faulting. The large number of pipelines and the products that they carry must be fully disclosed in the DEIS. The existence and location of faults must be fully disclosed in the DEIS. The risk of pipeline rupture and explosions and toxic releases must be fully disclosed in the DEIS.

5. **Impact to the Southeast Water Treatment Plant** – Although the DEIS identifies the southern alignment around Ellington as the preferred alternative, BNSF and the industries have stated to the TTI committee of the City of Houston that they now wish to pursue the northern alignment that is adjacent to the City of Houston’s southeast water treatment facility. At a meeting with Clear Lake residents, a SJ Rail spokesman said that the rail line could not go to the north because the threat of contamination of the City of Houston (and several other cities) drinking water. What has happened to change that analysis? It is really stupid to route a train carrying hazardous materials adjacent to a major drinking water treatment facility, just as it is really stupid to route a train carrying hazardous materials through schools.

6. **Cumulative Transportation Impacts With Bayport** – The proposed San Jacinto Rail literally terminates at the Atofina plant which is immediately adjacent to the proposed Bayport container port by the Port of Houston. The proposed SJ Rail line is adjacent to Port Road, which is to be used as the primary exit for the proposed Bayport container facility. There is no consideration in the DEIS of the potential overlap of these two projects, either along Port Road or at other locations. In fact, the DEIS assumes that traffic will not be significantly increased on Port Road, an erroneous assumption given that upwards of 5000 trucks per day will be leaving the proposed Bayport container facility down Port Road. Clearly the STB has not read the DEIS for the Bayport container port and has not incorporated the facts of this proposed action in their analysis of transportation impacts along Port Road and SH 146.

7. **Cumulative Actions** – The Port of Houston has proposed the Bayport container facility. BNSF and local industries have proposed the San Jacinto Rail project. A DEIS has been prepared and published for each of these proposals, one by the Corps of Engineers and one by the STB. Under the rules of the Council on Environmental Quality at 40 CFR 1508.25(a)(2), where there are multiple pending proposals with cumulatively significant impacts, they should be discussed in the same EIS. SJ Rail and the proposed Bayport container port will both significantly impact land use in southeast Harris County, air quality in southeast Harris County, wetlands in southeast Harris County and transportation in southeast Harris County. Additionally, there are cumulative environmental justice issues associated with the impact of rail transportation on the Hispanic community. Bayport will send 8 – 8000 foot long trains along SH 225 and then north through the East End, adding to the two trains per day from SJ Rail. These projects should be analyzed in the same EIS because they will significantly alter southeast Harris County.

8. **The Industries That Are Proposing This Project** – We have been told that the industries that are partners in this SJ Rail project are pursuing this alternative because they need relief from exorbitant rates charged by Union Pacific. Yet, who are these industries that are asking us to endanger our children, our communities, our wetlands and our mobility? Do they have clean hands? Have they been violating any permit provisions lately? What are their hazardous pollutant releases? These questions need to be raised in the public hearing. These industries are causing us major problems and may endanger our lives and our property if they get this permit. They need to be honest with us. How many tons of pollutants do they put out? Have they ever had a shelter in place in the adjacent residential areas? What are their worst case, toxic release scenarios? We need to make sure that these industries fully understand that they have placed themselves in our field of vision. They have inserted themselves into our lives. Now let’s find out who they are and whether or not they deserve the public trust.